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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/883,025	06/17/2001	Gilad Lavi	P31438 USA	9705
61214 7590 07/24/2007 SYNNESTVEDT & LECHNER LLP 2600 ARAMARK TOWER 1101 MARKET STREET PHILADELPHIA, PA 19107			EXAMINER STIGELL, THEODORE J	
			ART UNIT 3763	PAPER NUMBER
			MAIL DATE 07/24/2007	DELIVERY MODE PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b> 09/883,025	<b>Applicant(s)</b> LAVI ET AL.	
	<b>Examiner</b> Theodore J. Stigell	<b>Art Unit</b> 3763	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 25 April 2007.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☐ Claim(s) 1-11, 13-16 and 28-31 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☐ Claim(s) 1-3 and 28-31 is/are rejected.
- 7) ☐ Claim(s) 4-11 and 13-16 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)                                | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                       | 5) <input type="checkbox"/> Notice of Informal Patent Application                       |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

## **DETAILED ACTION**

### ***Response to Amendment***

The finality of the previous rejection (mailed 1/25/2007) has been withdrawn in light of the Applicant's remarks (filed 4/25/2007).

### ***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1-3 and 28 are rejected under 35 U.S.C. 102(b) as being anticipated by Davison et al. (5,279,582). Davison discloses a needle device comprising a housing (18') having a base for placement against a surface of a needle penetrating site, the base including a first opening, a needle (16) mounted for a movement between a retracted position (Figure 9) and an extended position (Figure 10), a portion of the needle extending through the opening in the extended position, an actuator (12,21) movably mounted to the housing and movable between an unactuated position (Figure 9) in which the needle is in the retracted position and an actuated position (Figure 10) in which the needle is in the extended position and a retraction mechanism (44) that automatically moves the needle to the retracted position responsive to releasing the base from the site surface, wherein the needle is biased toward a retracted position, and the retraction mechanism maintains the needle in the retracted position upon moving to the actuated position.

Claims 1-3 and 28-31 are rejected under 35 U.S.C. 102(b) as being anticipated by Martin (5,147,303). Martin discloses a needle device comprising a housing (12) having a base for placement against a surface of a needle penetrating site, the base including a first opening, a needle (24) mounted for a movement between a retracted position (Figure 3) and an extended position (Figure 2), a portion of the needle extending through the opening in the extended position, an actuator (16) movably mounted to the housing and movable between an unactuated position (Figure 3) in which the needle is in the retracted position and an actuated position (Figure 2) in which the needle is in the extended position and a retraction mechanism (40) that automatically moves the needle to the retracted position responsive to releasing the base from the site surface, wherein the needle is biased toward a retracted position, and the retraction mechanism maintains the needle in the retracted position upon moving to the actuated position, further comprising a locking mechanism (54) and a cover (22) for covering the opening after the needle moves to the retracted position.

#### ***Allowable Subject Matter***

Claims 4-11 and 13-16 objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

#### ***Response to Arguments***

Applicant's arguments, see Remarks, filed 4/25/2007, with respect to the rejection(s) of claim(s) 1-3 and 28-31 under 35 U.S.C. 102 have been fully considered and are persuasive. Therefore, the rejection has been withdrawn. However, upon

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further consideration, a new ground(s) of rejection is made in view of the references listed above.

### **Conclusion**

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Theodore J. Stigell whose telephone number is 571-272-8759. The examiner can normally be reached on M-F 8:30-5:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Nicholas Lucchesi can be reached on 571-272-4977. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

  
Theodore J. Stigell

  
Matthew DeSanto

 7/19/07